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10 IN THE UNITED STATES DISTRICT COURT  
11  
12 FOR THE NORTHERN DISTRICT OF CALIFORNIA

13 SAN RAFAEL CITY SCHOOLS  
14 Plaintiff,

CASE NO.C07-04702WHA

15 v.  
16 OFFICE OF ADMINISTRATIVE  
17 HEARINGS  
18 Defendant, and  
19 T.M., a minor,  
20 Real Party in Interest.

**ANSWER OF REAL PARTY IN  
INTEREST T.M.**

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28 Real Party in Interest, T.M. ("T.M."), pursuant to Rules 8 and 12 of the Federal Rules of Civil  
Procedure, and Civil Local Rule 16-5, in answer to the Complaint ("Complaint") of Plaintiff SAN  
RAFAEL CITY SCHOOLS ("District"), hereby admits, denies, and alleges as follows:

**INTRODUCTION**

1. In answer to paragraph 1 of the complaint, T.M. admits the allegations therein, with the  
exception that T.M. affirmatively alleges that an order clarifying the decision was rendered  
on September 14, 2007.
2. In answer to paragraph 2, T.M. denies the allegations.
3. In answer to paragraph 3, T.M. denies the allegations.
4. In answer to paragraph 4, T.M. denies the allegations.
5. In answer to paragraph 5, T.M. denies the allegations except to the extent that the District  
has filed the action.

**JURISDICTION AND VENUE**

- 1 6. In answer to paragraph 6, T.M. admits the allegations.
- 2 7. In answer to paragraph 7, T.M. admits the allegations.
- 3 8. In answer to paragraph 8, T.M. admits the allegations.

4 **PARTIES**

- 5 9. In answer to paragraph 9, T.M. admits the allegations.
- 6 10. In answer to paragraph 10, T.M. admits the allegations.
- 7 11. In answer to paragraph 11, T.M. admits the allegations.
- 8 12. In answer to paragraph 12, T.M. admits the allegations with the exception that T.M.  
9 affirmatively alleges that an order clarifying the decision was rendered on September 14,  
10 2007.
- 11 13. In answer to paragraph 13, T.M. denies the allegations.

12 **FACTUAL BACKGROUND**

- 13 14. In answer to paragraph 14, T.M. admits the allegations to the extent that this is an appeal  
14 of an administrative decision and denies the rest of the allegations.
- 15 15. In answer to paragraph 15, T.M. admits that the allegations.

16 **Kindergarten Year**

- 17 16. In answer to paragraph 16, T.M. admits the allegations to the extent that they are only a  
18 part of the school program offered and services rendered.
- 19 17. In answer to paragraph 17, T.M. admits the allegations to the extent that T.M. was passed  
20 from kindergarten to first grade but denies the rest of the allegations.

21 **First Grade Year 2005-2006**

- 22 18. In answer to paragraph 18, T.M. admits the allegations.
- 23 19. In answer to paragraph 19, T.M. admits the allegations to the extent that he was in the  
24 general education classroom with Mrs. Volkober and denies the rest of the allegations.
- 25 20. In answer to paragraph 20, T.M. denies the allegations.
- 26 21. In answer to paragraph 21, T.M. admits the allegations to the extent that Mrs. Volkober  
27 did provide accommodations and small group instruction and denies the rest of the  
28 allegations.
22. In answer to paragraph 22, T.M. admits the allegations to the extent that Mrs. Volkober

1 notes difficulties and the referral to the SST team. T.M. denies the rest of the allegations.

2 23. In answer to paragraph 23, T.M. denies the allegations except to the extent that speech  
3 and language services were offered and twice weekly RSP services were offered.

4 24. In answer to paragraph 24, T.M. Student admits the allegations.

5 25. In answer to paragraph 25, T.M. denies the allegations.

6 26. In answer to paragraph 26, T.M. admits the allegations except to the extent that the IEP  
7 goals responded to the student's mother's concerns.

8 27. In answer to paragraph 27, T.M. denies the allegations.

9 28. In answer to paragraph 28, T.M. admits the allegations.

10 **Second Grade Year 2005-2006**

11 29. In answer to paragraph 29, T.M. admits the allegations.

12 30. In answer to paragraph 30, T.M. denies the allegations.

13 31. In answer to paragraph 31, T.M. denies the allegations except to the extent that  
14 accommodations were provided.

15 32. In answer to paragraph 32, T.M. admits the allegations with the exception of the  
16 agreement with the services.

17 33. In answer to paragraph 33, T.M. denies the allegations.

18 34. In answer to paragraph 34, T.M. admits the allegations.

19 **Third Grade Year 2006-2007**

20 35. In answer to paragraph 35, T.M. denies the allegations.

21 36. In answer to paragraph 36, T.M. denies the allegations except to the extent that he was  
22 enrolled at STAR Academy and the cessation of attendance at Sun Valley School.

23 37. In answer to paragraph 37, T.M. denies the allegations.

24 38. In answer to paragraph 38, T.M. denies the allegations.

25 **The Due Process Hearing and OAH Decision**

26 39. In answer to paragraph 39, T.M. admits the allegations.

27 40. In answer to paragraph 40, T.M. admits the allegations in part but denies them to the  
28 extent that they are not comprehensive.

41. In answer to paragraph 41, T.M. admits the allegations but denies them to the extent that

1 they are not comprehensive.

2 42. In answer to paragraph 42, T.M. admits the allegations but denies them to the extent that  
3 the order was clarified on September 14, 2007.

4 43. In answer to paragraph 43, T.M. denies the allegations.

5 **FIRST CAUSE OF ACTION**

6 44. In answer to paragraph 44, T.M. incorporates by reference its responses to paragraphs 1-  
7 43, inclusive, of the Complaint, as set forth above.

8 45. In answer to paragraph 45, T.M. denies the allegations except to the extent that the cited  
9 provisions of the IDEA speak for themselves.

10 46. In answer to paragraph 46, T.M. denies the allegations except to the extent that the cited  
11 provisions of the IDEA speak for themselves.

12 47. In answer to paragraph 47, T.M. denies the allegations except to the extent that the cited  
13 provisions of the IDEA speak for themselves.

14 48. In answer to paragraph 48, T.M. denies the allegations.

15 61. In answer to paragraaph 61, which appears out of order, T.M. denies the allegations.

16 **SECOND CAUSE OF ACTION**

17 49. In answer to paragraph 49, T.M. incorporates by reference its responses to paragraphs 1-  
18 49, inclusive, of the Complaint, as set forth above. T.M. affirmatively alleges that the  
19 complaint cites paragraph numbers which are incorrect.

20 50. In answer to paragraph 50, T.M. denies the allegations.

21 51. In answer to paragraph 51, T.M. denies the allegations.

22 52. In answer to paragraph 52, T.M. denies the allegations.

23 **PRAYER FOR RELIEF**

24 53. In answer to paragraph 53, T.M. denies the allegations.

26 **AFFIRMATIVE DEFENSES**

27 54. T.M. alleges that Plaintiff's complaint fails to state a claim upon which relief can be  
28 granted.

**PRAYER**

1 WHEREFORE, T.M. prays for relief as follows:

- 2 1. That the Plaintiff take nothing by way of his complaint;
- 3 2. That Plaintiff's complaint be dismissed with prejudice;
- 4 3. That T.M. recover its attorney fees and expenses incurred herein and in the
- 5 underlying case;
- 6 4. For costs of suit incurred herein;
- 7 5. For post-judgement interest on the reimbursements ordered in the underlying
- 8 administrative decision and the order clarifying decision;
- 9 5. For such other and further relief as the Court deems just and proper.

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11  
12 Respectfully submitted,

13 MARGARET M. BROUSSARD

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15 Attorney for Real Party in Interest, T.M.

16  
17 Dated : November 26, 2007

18 By:/s/ \_\_\_\_\_

19 Margaret M. Broussard

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